

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RUSSEL “JOEY” JENNINGS,	:	Civil No. 3:20-CV-148
<i>by and through his parents/guardians,</i>	:	
<i>Richard and Susan Jennings, et al.,</i>	:	
	:	
Plaintiffs,	:	
	:	
v.	:	(Magistrate Judge Carlson)
	:	
TOM WOLF, et al.,	:	
	:	
Defendants.	:	

MEMORANDUM ORDER

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

This case, a class action lawsuit brought against the former Governor of Pennsylvania and a number of state health officials, involves claims under the Americans with Disabilities Act (“ADA”) regarding the continued placement of profoundly intellectually disabled persons in state-operated Intermediate Care Facilities (“ICFs”). The named plaintiffs and class members are intellectually disabled individuals who currently reside in two state-operated ICFs, White Haven Center and Polk Center. In 2019, the state made a decision to close these two ICFs and transfer the remaining residents to either a community placement, a privately-operated ICF, or one of the two remaining state-operated ICFs—Selinsgrove and

Ebensburg. On November 2, 2022 we granted the plaintiffs' motion to certify this lawsuit as a class action but denied the plaintiffs' motions for injunctive relief. (Docs. 160, 161). See Jennings by & through Jennings v. Wolf, No. 3:20-CV-148, 2022 WL 16635644, at *1 (M.D. Pa. Nov. 2, 2022). We subsequently learned that all of the named plaintiffs except for Russell "Joey" Jennings represented by his parents/guardians Richard and Susan Jennings and Janine Winsock represented by his sister/guardian Ann Meszczynski wished to withdraw from this lawsuit. It was also represented that the class now consisted of no more than 34 individuals, raising questions concerning whether Rule 23's numerosity requirements are still met here. Accordingly, the defendants filed a motion to de-certify the class. (Doc. 183). Following the issuance and return of opt-in forms, (Doc. 191), this motion is now ripe for resolution.

In light of these developments IT IS ORDERED that the defendants shall file a brief in support of their motion to de-certify this class action on or before **April 6, 2023**. The plaintiffs may then respond to the motion on or before **April 20, 2023**. Any defense reply brief shall be filed on or before **May 1, 2023**.

/s/ Martin C. Carlson
Martin C. Carlson
United States Magistrate Judge

DATED: March 16, 2023